BOOK REVIEWS.

THE EMPLOYERS' LIABILITY ACTS, AND THE ASSUMPTION OF RISKS IN NEW YORK, MASSACHUSETTS, INDIANA, ALABAMA, COLORADO AND ENGLAND. By Frank F. Dresser. St. Paul: Keefe-Davidson Company. 1902, pp. xii, 881.

This is a badly-needed and well-executed work. It is up to date, containing the New York Employers' Act, which took effect the first day of last July. While not a model specimen of the bookmaker's art, the type is excellent and the general appearance of the volume is good.

The topic of this treatise, as Sir Frederick Pollock pointed out long ago, is far from clear in principle; and it has been confused rather than simplified by modern legislation. Mr. Dresser states the rule, which had been evolved by the courts, as follows: "The common law implies a contract between a master and a servant whereby the former undertakes, through himself or his agents, to use reasonable care to furnish and maintain suitable and safe places, machinery and appliances for the work to be done, to have competent servants and to warn the servant of all dangers of the work known to him and not known to the servant; and the latter undertakes to assume the risk of injury arising from the dangers of the work which he knows, or ought to know, and the risk of injury caused by the negligence of all other servants in the common employment." The evolution of this rule was very rapid. Its existence was first suggested by the English Court of Exchequer in 1837. Four years later, the Supreme Court of South Carolina expressed its belief that such a rule should be adopted. In 1849, Chief Justice Shaw laid down the rule in substantially its present form. His exposition of the reasons upon which the doctrine is based, was full and masterly. A learned English judge has declared that the great judgment of the Massachusetts Chief Justice materially influenced the decision of the House of Lords when the question first came to its bar. It is undoubtedly to be regarded as the fountain-head of all subsequent decisions upon this topic.

For many years the wisdom of the rule was scarcely challenged. But, as Mr. Dresser points out, "the marvelous increase of the class of industrial servants, and the constantly growing percentage of accidents for which there may be no recovery have led to a wide-spread disbelief in the policy which dictated the common law rule." In England, this skepticism has led to the passage of the Employers' Liability Act of 1880, and the Workmen's Compensation Acts of 1897 and 1900. By the first of these statutes the special defense, which a master had by the common law rule to an action brought by a servant for injuries sustained through the negligence of a fellow-servant, has been abolished in certain classes of cases. By the second statute, common law principles of liability are set aside in favor of certain classes of workmen,

who are declared entitled to compensation for injuries received in the course of their employment, whether their employer is negligent or not, provided only the injury is not caused by their own wilful misconduct. The English Employers' Liability Act of 1880 has formed the model for legislation upon this topic in several of our States. Alabama was the first of our Commonwealths to follow in England's steps, while New York is the latest recruit to the ranks of protestants against the common law doctrine so ably championed if not discovered by Chief Justice Shaw.

Such being in brief the history of the development and modification of the Employers' Liability rule, it is natural that Mr. Dresser should first expound the general principles upon which the rule is supposed to rest; then analyze the statutes which have modified it, and lastly to present the judicial expositions of the statutes. All this he does with ability and in a very satisfactory way. In the Appendix is to be found the text of the various English and American Employers' Liability Acts, but not all of the State legislation bearing upon the subject of the book. Statutes which limit or remove the defense of fellow-service in the case of railroad employes are printed in notes to the text of Chapter Seven.

THE ELEMENTS OF THE LAW OF SALE OF PERSONAL PROPERTY. By Wm. L. Burdick. Chicago: F. H. Flood & Co. 1901. pp. xi, 214.

This work is scarcely more than a skeleton of Benjamin on Sales. Its arrangement of topics is substantially the same, and when a variation occurs, it appears to have been resorted to for the sole purpose of escaping the charge of abject servility in copying a great original. Much of the text is a mere digest of decisions. A good example is afforded by pages fifteen and sixteen, which contain ten sections with their separate headings, ten lines of text, and the citations of forty-three cases. Most of the citations are from American reports, and the text does not disclose any careful study of the subject beyond Mr. Benjamin's book and its valuable American notes. Had the author investigated the law merchant, or even read with care Lord Blackburn's comments upon it, his section on stoppage *in transitu* would have been improved; and he would have escaped the error of asserting that the right of stoppage "is simply an extension of the vendor's lien." He would have learned that the two rights are quite distinct.

MASON ON HIGHWAYS, containing the New York Highway Law, etc. By Herbert Delavan Mason. Albany: Banks & Company. 1902. pp. xxi, 322.

The only objection to this little volume is the misleading character of its principal title, and the length of its sub-title, which, though accurately defining the scope of the work, is too long to be set forth *in extenso*. The book is not a treatise on highways, nor even a full exposition of the highway law of New York, but of only so much of the latter as has been embodied in statute form.

As an annotated edition of "The Highway Law" of 1890, the book leaves little to be desired. It presents the text of the statute in its present, amended form, together with such provisions of the county